

**ZONING BOARD OF APPEALS**

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ZBA 2007-58

Petition of Roman Catholic Archbishop of Boston
910 Worcester Street

Petition of ROMAN CATHOLIC ARCHBISHOP OF BOSTON requesting renewal of a Special Permit pursuant to the provisions of Section II A 8 (j), Section XIVE, and Section XXV of the Zoning Bylaw for non-accessory use of off-street parking spaces in its existing parking lot at 910 WORCESTER STREET, in a Single Residence District, which is a use not allowed by right.

On July 26, 2007, the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Laurence Shind, Esquire, who said that he was representing Lee Imported Cars. He said that Dudley Mulcahy, from the office of the Archbishop (the "Petitioner"), asked that Mr. Shind make the presentation on his behalf. Mr. Shind said that present with him was Dana Lee, President of Lee Imported Cars.

Mr. Shind said that the Petitioner is requesting a one-year renewal of the Special Permit for the use of the existing parking lot at 910 Worcester Street for up to 60 employee parking spaces. He said that the previous Special Permit was issued for joint parking by Lee Imported Cars and Jarvis Appliances employees. He said that parking for Jarvis Appliances employees is not part of this request.

Mr. Shind said that last year's experience shows that the use of the lot for employee parking did not cause significant disturbance or disruption to any residential neighborhood.

Mr. Shind said that the status of the Church's use is unchanged from last year.

The Board said that the original Special Permit was granted for one year to allow Mr. Lee to build a garage on his property for the employees. The Board said that the non-accessory use of the parking lot was allowed as a temporary solution.

Mr. Shind said that Lee Imported Cars has been unable to complete its plans to provide employee parking on their site due to current uncertain economic times and the current state of the automobile industry. He said that Lee Imported Cars is continuing to try to find a solution. Mr. Shind said that Lee Imported Car's use of the lot dates back at least 15 years. He said that extension of the Special Permit will benefit a long-standing member of the community as well as more than 50 employees.

Dana Lee said that the automobile industry is currently going through strenuous times. He said that it would be a hardship for them to have to move the parking at this time. He said that they had tried to work out a deal on the Kehoe property but had to withdraw from that.

Mr. Lee said that he has been looking at other solutions for on-site employee parking. He said that he will be meeting with representatives of a car-lift company. He said that he has spoken with designers about constructing a parking deck out back. He said that both projects would be expensive.

The Board said that the original request for a Special Permit was for 40 parking spaces for Lee Imported Cars and 20 parking spaces for Jarvis Appliances employees. The renewal request is for 60 parking spaces for Lee Imported Cars' employees. Mr. Lee said that some of the employee parking had been on the Kehoe property. He said that they can no longer use the Kehoe property as the lease was terminated. The Board said that the increase in the number of parking spaces requested by Lee Imported Cars would not be allowed.

Barbara Canoni, 2 Dale Street, said that she spoke at the first public hearing for this petition. She said that they did not have any objections to the employee parking for Lee Imported Cars and Jarvis Appliances at that time. She said that she is concerned that the Special Permit will continue to be extended. The Board said that it is highly unlikely that the Special Permit will be renewed after this year.

Ms. Canoni said that the Archdiocese does not have someone on site to manage the property. She said that modular homes were parked on the lot. The Board said that a condition of the Special Permit would be that Lee Imported Cars would also be responsible for policing the parking lot for violations and that the Special Permit may be revoked if unauthorized vehicles park on the property.

The Board said that the intent of the bylaw was to address the Planning Board's concerns about church lots being used for commercial purposes in residential areas.

Mr. Shind said that the St. James lot is unique as a church in a residential area. He said that most of the other churches in town are in the midst of residential neighborhoods. He said that the area of Route 9 (Worcester Street) where the St. James lot is located is largely commercial. He said that there is a large office building that directly abuts the property.

The Board said that the St. James parking lot is located in a Water Supply Protection Area.

Statement of Facts

The subject parking lot is located at 910 Worcester Street, in a Residential District and a Water Supply Protection District. The Petitioner is requesting a Special Permit to allow for non-accessory use for parking of vehicles in its existing parking lot, which is a use not allowed by right.

The designed parking spaces are intended for employee parking during working hours. There are 40 spaces allocated for Lee Imported Cars.

A plot plan, dated 7/31/07, stamped by Frank Iebba, Professional Land Surveyor, was submitted.

On July 30, 2007 the Planning Board voted to recommend that the petition be denied.

Decision

This Authority has made a careful study of the materials submitted and the information presented at the hearing. A Special Permit is required pursuant to Section II A 8 (j) of the Zoning Bylaw, as the requested use of the parking lot for non-accessory off-street parking for employee vehicles in an existing parking lot is not a use allowed by right in a Residential District.

It is the opinion of this Authority that the non-accessory use parking shall not cause significant disturbance or disruption of any residential neighborhood, shall not detract from the use of the parking lot for the accessory use, or reduce landscaping or screening areas. Therefore a Special Permit is granted, subject to the following conditions:

1. Parking shall be limited to business hours only.
2. Parking spaces shall be assigned on a monthly basis only.
3. 40 parking spaces shall be for employee parking for Lee Imported Cars.
4. There shall be no vehicle storage allowed.
5. There shall be no overnight parking.
6. Lee Imported Cars shall be responsible for policing the parking lot for violations. The Special Permit may be revoked if unauthorized vehicles are parked on the property.
7. The Special Permit shall expire one year from the date time-stamped on this decision or earlier if there is a change of use as a closed church.

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APPEALS FROM THIS DECISION,
IF ANY, SHALL BE MADE PURSUANT
TO GENERAL LAWS, CHAPTER 40A,
SECTION 17, AND SHALL BE FILED
WITHIN 20 DAYS AFTER THE DATE
OF FILING OF THIS DECISION IN THE
OFFICE OF THE TOWN CLERK.

Richard L. Seegel, Chairman

Cynthia S. Hibbard

Robert W. Levy

cc: Planning Board
Inspector of Buildings
lrm